

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 12-763V

Filed: May 26, 2016

Not for Publication

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DOUG AHLUM and KARI AHLUM, \*  
Parents and Next of Kin to \*  
T.A., \*

Petitioners, \*

v. \*

SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

Andrew D. Downing, Phoenix, AZ for petitioners.

Debra A. Filteau Begley, Washington, DC, for respondent.

**MILLMAN, Special Master**

### **DECISION AWARDING INTERIM ATTORNEYS' FEES AND COSTS<sup>1</sup>**

On November 9, 2012, petitioners filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10–34 (2012) (“Vaccine Act”) alleging that their son, T.A., suffered an encephalopathic event as a result of his receipt of the MMR vaccine on August 11, 2011. Pet. at 1, 3. The undersigned held a three-day entitlement hearing beginning on March 1, 2016. No decision on entitlement has been issued. The parties are currently discussing settling the case.

On April 27, 2016, petitioners filed a second motion for interim attorneys’ fees and costs. Petitioners filed an amended motion for interim attorneys’ fees and costs on May 26, 2016.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master’s action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

Petitioners' amended motion is unopposed by respondent. Petitioners request \$114,812.86 in interim attorneys' fees and costs. In compliance with General Order #9, petitioners' counsel represents that petitioners incurred no costs in pursuit of this claim.

The Vaccine Act permits an award of "reasonable attorneys' fees" and "other costs." 42 U.S.C. § 300aa-15(e)(1). Based on the reasonableness of petitioners' request and the lack of opposition from respondent, the undersigned **GRANTS** petitioners' motion for interim attorneys' fees and costs and awards \$114,812.86, representing reimbursement for interim attorneys' fees and costs. The award shall be in the form of a check made payable jointly to petitioners and Van Cott & Talamante, PLLC in the amount of **\$114,812.86**.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: May 26, 2016

s/ Laura D. Millman  
Laura D. Millman  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.

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**SECRETARY OF HEALTH** )  
**AND HUMAN SERVICES,** )  
 )  
 **Respondent.** )

**Case No. 12-763**

**Special Master Laura Millman**

**UNOPPOSED AMENDED APPLICATION FOR  
INTERIM ATTORNEYS' FEES AND COSTS**

Petitioners file this Unopposed Amended Application for Interim Attorneys' Fees and Costs and states as follows:

1. On April 27, 2016, Petitioners filed their Second Application for Interim Fees and Costs. [Doc. 73].
2. Based on objections raised by and discussions with Respondent, Petitioners hereby amend the Application for Interim Attorneys' Fees and Costs to request reimbursement in the total amount of \$114,812.86. Respondent has no objection to this amount.
3. Pursuant to General Order #9, Petitioners have not incurred any costs in pursuit of the claim.
4. Petitioners now request that a decision awarding interim attorneys' fees and costs in the amount of \$114,812.86, payable to Petitioners and petitioner's counsel, Andrew D. Downing, Esq., be issued.

**RESPECTFULLY SUBMITTED** this 26<sup>th</sup> day of May, 2016.

**VAN COTT & TALAMANTE, PLLC**

By: /s/ Andrew D. Downing

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ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing was transmitted via the ECF System to the party indicated below, with postage prepaid, this 26<sup>th</sup> day of May, 2016.

**Debra A. Filteau Begley, Trial Attorney**

Torts Branch, Civil Division

**U.S. Department of Justice**

P.O. Box 146, Benjamin Franklin Station

Washington, D.C. 20044-0146

By: /s/ Andrew D. Downing